IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

WP(C).No. 4515 of 2007(K)

CC.167/2005 of J.M.F.C.-I,NEYYATINKARA

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PETITIONER:

SOFIA, T.C.14/1588-1,
MANASI VAZHUTHACAUD, TRIVANDRUM.

BY ADV. SRI.M.R.SARIN PANICKER
SRI.M.R.SASITH PANICKER

RESPONDENTS:

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1. M.P.ERMMANUEL,
SAJITH BHAVAN, R.C.JUNCTION, CONVENT ROAD,
NEYYATTINKARA P.O., TRIVANDRUM.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY GOVERNMENT PLEADER SRI.S.U.NAZER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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W.P.C.No. 4515 of 2007 K

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Dated this the 12th day of February, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. The petitioner has a case that he was compelled and coerced to sign a cheque by the complainant and his goondas acting in collusion with him. The Bank Manager has been summoned. When he came to the court, there was an omission on the part of the petitioner to mark a document. Petitioner's counsel happened to be not present on that day and that was the reason why the document could not be marked, it is submitted. The petitioner on the very next day filed application under Section 311 Cr.P.C. to recall the said witness for the purpose of marking the document.

2. The short grievance of the petitioner in this writ petition before me is that the learned Magistrate is refusing to accept the said petition filed under section 311 Cr.P.C. and to pass orders thereon. The petitioner is, in these circumstances, helpless. He wants to file an application under Section 311 Cr.P.C. He is attempting to do the same. But the learned Magistrate is not accepting the same.

3. The sequence of events narrated does not evidently inspire confidence. I am satisfied that a report must be called for from the learned Magistrate about the sequence of events. If the matter has not been disposed of already, needless to say, the petitioner shall be at liberty to file such application under Section 311 Cr.P.C. sufficiently in advance so that that petition will come up for hearing on the next date of posting and the learned Magistrate will have to pass appropriate orders. Await report of the learned Magistrate.

4. Call on 19.2.07. The Registry shall ensure that the report is placed before me on that day.

(R. BASANT)
Judge

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